United Nations S/2012/932

Security Council

Distr.: General
14 December 2012

Original: English

Letter dated 3 December 2012 from the President of the Governing Council of the United Nations Compensation Commission addressed to the President of the Security Council

I am pleased to provide my report as the President of the Governing Council of the United Nations Compensation Commission on the results of the Governing Council's seventy-fourth session, which was held in Geneva from 27 to 29 November 2012. The full text of the conclusions adopted by the Governing Council is attached.* I would like however to highlight a few of the issues discussed during the session.

At the opening plenary meeting, delegations from the Governments of Kuwait and Iraq addressed the Council. Copies of their respective statements are being sent by mail with the original of this letter. The participating Governments under the Follow-up Programme for Environmental Awards, Jordan, Kuwait and Saudi Arabia, addressed the Council in respect of the Follow-up Programme for Environmental Awards regarding their progress towards achieving the systems and controls required under decision 269 of the Governing Council (S/AC.26/Dec.269 (2011)).

On the level of Iraq's contribution to the Compensation Fund, the Council noted that two payments to Kuwait have been made since the last session totalling approximately $2.4 billion and that, based on current levels of income to the Fund and recent projections, the Commission remains on track to pay the outstanding balance of $13.6 billion in full as early as April 2015.

With regard to the consultations between Iraq and Kuwait under the auspices of the Compensation Commission on the outstanding balance, the Council encouraged the two countries to seek a settlement of the outstanding obligations, in the interest of both countries, and requested that the secretariat continue its efforts to resume the consultations.

In its consideration of the issue of arrangements for ensuring that payments are made to the Compensation Fund, the Council noted Iraq's commitment to meeting its obligations and expressed its satisfaction with the continued transfers of 5 per cent of Iraq's oil revenues to the Compensation Fund under the oversight of the Iraq Committee of Financial Experts. The Council also considered the issue of the accumulated shortfall to the Compensation Fund of approximately $225 million as a result of barter sales of petroleum and petroleum products that are not reported in

* Not included in the present document.

Please recycle

the financial statements and income from exports being deposited into accounts controlled by the Iraq Oil Marketing Company rather than into the Oil Proceeds Receipts Account. The Council noted that, based on current revenue to the Fund, the shortfall represents a delay of only three weeks with respect to the final payment and will not affect the completion of payments. Given this, the Council decided that the payment of the shortfall should not be further pursued.

With respect to the Follow-up Programme for Environmental Awards, the Council recalled that, in paragraph 2 of decision 269 (2011), it called upon the participating Governments to establish the systems and controls by the seventy-fourth session of the Council or earlier; and also recalled its direction, at its seventy-third session, that the Governments continue their focused work towards fulfilling the criteria under decision 269 in consultation with the independent reviewers and secretariat in line with the 2012 target date.

The Council noted that Saudi Arabia has materially met the requirements of decision 269 with respect to the establishment of the requisite systems and controls. The Council noted its expectation that it will be ready to declare the mandate of the Programme fulfilled in the case of Saudi Arabia on or before the next Council session, subject to Saudi Arabia satisfactorily addressing certain issues.

With respect to Jordan and Kuwait, the Council noted that, while they have made continued progress, they have not yet fulfilled the requirements of decision 269. The Council noted specific issues to be addressed and made recommendations for action to be taken with a view to Kuwait and Jordan achieving material compliance with decision 269 by the next session of the Governing Council.

The Council also considered the assurances to be provided under paragraph 6 of decision 269, and noted that the draft text of the assurances has now been agreed upon by the participating Governments' respective national focal points, subject to adjustments that may be required at the time of the closure of the Programme in respect of each Government. The authorities designated to eventually provide the assurances were considered acceptable to the Council and the final issuance of the assurances will be required following the Council's determination that each Government has fulfilled the requirements of decision 269.

Under decision 258 (S/AC.26/Dec.258 (2005)), the Council took note of briefings by the secretariat on the projects in Iran (Islamic Republic of), Jordan, Kuwait and Saudi Arabia, and of information notes by the secretariat and the biannual reports of the respective national focal points and independent reviewers. The Council made recommendations, approved phasing plans, authorized the release of funds from the respective special accounts as appropriate, and approved technical modifications in the case of Kuwait's projects.

The Council adopted a report of the Committee on Administrative Matters, which recommended that the level of the Commission's operating reserve be reduced to $10 million and that the excess amount of $30.8 million be transferred to the Compensation Fund for distribution to the outstanding awards.

With the recent payment made on 25 October 2012, there are now two remaining oil sector claims which were awarded compensation for damages to Kuwait's oil field assets (oil wells, pipelines and related equipment) and associated production and sales losses. The overall amount of compensation made available to

date by the Commission is approximately US$38.8 billion, with a total outstanding balance of $13.6 billion remaining to be paid to the two claims. The next payment is scheduled to be made on 24 January 2013.

The next Council session will be held from 30 April to 2 May 2013.

(*Signed*) Hanns Heinrich **Schumacher**
President of the Governing Council